

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.606(b).
Table of Allotments,
Television Broadcast Stations.
(Tupelo, Mississippi)

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MB Docket No. 03-221
RM-10796

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 12, 2004

Released: February 19, 2004

By the Chief, Video Division:

1. At the request of KB Prime Media and United Television, Inc. (collectively "Applicants"), the mutually exclusive applicants for channel 35+ at Tupelo, Mississippi, the Commission has before it the Notice of Proposed Rule Making, proposing the substitution of channel 49 for channel 35+ at Tupelo, Mississippi. KB Prime filed comments.¹

2. The Applicants filed their petition for rule making pursuant to the provisions outlined in the Commission's Public Notice ("*Public Notice*") released on November 22, 1999, DA 99-2605.² In that *Public Notice*, the Commission announced a window filing opportunity to allow persons with certain pending requests for new NTSC stations to modify their requests. The Applicants stated that with the allotment of DTV channel 35 at Columbus, Mississippi, the use of channel 35 at Tupelo was eliminated. Therefore, the Applicants filed a petition for rule making seeking to change their channel.

3 We believe the public interest would be served by substituting channel 49 for channel 35+, since this action will facilitate the implementation of a new TV service to the community of Tupelo. A staff engineering analysis indicates that channel 49 can be allotted to Tupelo, Mississippi, with a plus offset consistent with the minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission Rules. The coordinates for channel 49+ at Tupelo are North Latitude 33-55-37 and West Longitude 88-33-36.

¹ KB Prime affirms its interest in applying for DTV channel 49+ at Tupelo, if assigned, but states that on May 8, 2001, the Commission incorrectly dismissed the Applicants' pending applications. It states that while its application was reinstated; it is unclear if United sought reinstatement of its application. Our records indicate that on June 5, 2001, the Commission reinstated KB prime and United pending applications; therefore, we find that both parties are eligible to file an amendment to their pending applications for the channel substitution reflected in this *Report and Order*.

² See *Mass Media Bureau Announces Window Filing Opportunity for Certain Pending Applications and Allotment Petitions for New Analog TV Stations*.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective April 5, 2004, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Tupelo, Mississippi	9-, 49+

5. IT IS FURTHER ORDERED, That within 45 days of the effective date of this Order, KB Prime Media and United Television, Inc. shall submit to the Commission minor change applications for construction permits (FCC Form 301) specifying TV Channel 49+ in lieu of TV Channel 35+ at Tupelo, Mississippi.

6 IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding, contact Pam Blumenthal, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau